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 U.S. DEPARTMENT OF JUSTICE  
 Environment & Natural Resources  
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Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF ALASKA

PAUL G. SHEARER	)	
	)	
Plaintiff,	)	No. 3:03-cv-00263-JKS
	)	(CONSOLIDATED)
V.	)	
	)	
UNITED STATES OF AMERICA,	)	MOTION OF UNITED STATES TO
DIRK KEMPTHORNE, Secretary	)	DISMISS AND TO STRIKE -
of the Interior et al.	)	SECOND AMENDED COMPLAINT
	)	
Defendants.	)	
	)	

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Defendants pursuant to Fed. R. Civ. P. 12 move the court for an order dismissing or striking the following claims as set forth in plaintiff Paul G. Shearer's Second Amended Complaint (Docket Entry No. 114):

I. Striking the allegation of jurisdiction and venue pursuant to 28 U.S.C. § 2409a from paragraphs 2 and 3, and the allegations of paragraphs 235-242 from the Second Amended Complaint on the grounds that Shearer has not been granted leave to amend the complaint to state a quiet title action, and

II. Dismissing for lack of jurisdiction and failure to state a claim upon which relief can be granted:

1. All claims for a taking of any properties under the

Mining in the Parks Act, 16 U.S.C. § 1910.

2. All claims for a compensation pursuant to Section 120 of the Act of November 14, 1997, Pub. L. N. 105-83, 111 Stat. 1543, 1564-66, and 16 U.S.C. § 1910 for a taking of the properties or interests designated in the Second Amended Complaint as Parcels 2, 3, 4, 5, 6, 8, 9, 10, 14, 15, 16, 17, 18, 20 and 21.

3. The claims for compensation pursuant to 16 U.S.C. § 1910, for the properties or interests designated in the Second Amended Complaint as Parcels 7, 11, 12, 13, and 19.

4. The claims set forth in paragraphs 197-223 of the Second Amended Complaint.

5. The claims set forth in paragraphs 180-193 of the Second Amended Complaint.

6. The claims set forth in paragraphs 194-196 of the Second Amended Complaint.

7. The claims set forth in paragraphs 224-231 of the Second Amended Complaint.

8. The claims set forth in paragraphs 63 and 64 of the Second Amended Complaint.

Dated this 24<sup>th</sup> day of August, 2007.

s/Dean K. Dunsmore  
DEAN K. DUNSMORE  
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 24<sup>th</sup> August day of 2007, a copy of the foregoing MOTION OF UNITED STATES TO DISMISS AND TO STRIKE - SECOND AMENDED COMPLAINT and a Proposed Order were served by placing said copy in a postage prepaid envelope, addressed to that person at the place and address stated below, and by depositing said envelope and contents in the United States mail at Anchorage, Alaska.

Paul G. Shearer  
Kathryn A. McCready  
1532 Meadows Drive  
Lake Oswego, Oregon 97034

s/Dean K. Dunsmore

Dean K. Dunsmore